

To: Michigan House of Representatives, Committee on Families and Children's Services

From: Michigan County Social Services Association  
Child and Family Services Committee  
(Mel Haga, Director; Bill Long, Committee member)

Subject: Senate Bill 227 of 2009

March 25, 2009

**Background**

SB 227 amends the "Subsidized guardianship assistance act" to make it more consistent with Federal Law. The Michigan County Social Services Association (MCSSA) supports the purpose and goals of SB 227. MCSSA, comprised of County Social Service Board members and County DHS directors, recognizes the benefits of making financial assistance available to relatives of children involved with protective services when financial assistance is necessary to assure the child's safety and welfare. SB 277 specifies that a child for whom guardianship assistance is received must have been removed from his or her home as a result of a judicial determination that allowing the child to remain in the parental home or return to the parental home would be contrary to the child's welfare, and reunification or placing the child for adoption is not an appropriate permanency option.

But the MCSSA wishes to bring to the Legislature's attention the relationship between the Subsidized Guardianship Act, the Probate Code and the Estates of Protected Individuals Act and urges the Legislature to consider amending SB 227, or to develop follow up legislation, to ensure the continued safety and welfare of the child and the integrity of the guardianship assistance funding.

Enactment of SB 227 in its present form will mean the only report required by the court for children placed in a guardian's home is that required of guardianships established under section 5215 of the Probate Code. That section of the Probate Code merely requires the guardian to annually submit a self declaratory form relating to the child's continued residence in the guardian's home and the health, education and activities of the child. (See SCAO approved form used for compliance with Section 5215 of the probate code attached). MCSSA does not believe this provides the level of review necessary to ensure the continued safety and welfare of the child and the integrity of the guardianship assistance funding.

The vast majority of relative guardians are committed to protecting and caring for a child. However the circumstances giving rise to the establishment of guardianships under the guardianship assistance act, such as the potential of continued contact with the parent and other social and emotional factors, make it more difficult for the guardian to protect the

child from harm. Additionally, the State has a continuing interest in this child's welfare by way of establishment of the guardianship financial assistance. Therefore the state has the added responsibility to ensure the financial assistance is in fact addressing the needs of the child. This responsibility is not sufficiently met by receipt by the court and the state of an annual self declaratory statement from the guardian.

The proposed amendment would require a DHS employee to visit the guardian at least annually and file a more comprehensive report to the court based on that visit. That report, which is currently required by the court under section 5207 of the Probate Code for any child under 6 years of age, requires an annual report to the Court by someone designated by the Court to report on whether the guardian has adequately provided for the minor's welfare, the necessity for continuing the guardianship, the willingness and ability to continue to provide for the minor's welfare and the effect upon the minor's welfare if the guardianship is continued. (See SCAO approved form used in compliance with Section 5207 of the probate code attached.)

MCSSA proposes that if SB 227 is determined not to be the appropriate bill for an amendment, that the Committee commit to work with MCSSA, representatives of the Court, DHS, and other interests to amend one or more of these Act's to appropriately address this issue. Based on this relationship the following amendment to SB 227(S-2) is recommended. (Proposed revisions in CAPITAL LETTERS)

**Amend Sec. 5(7) as follows:**

Sec 5. (7) The Department shall review the eligibility of the guardian and the child for continuation of guardianship assistance annually. THE DEPARTMENT'S REVIEW SHALL ADDRESS ALL OF THE FACTORS SPECIFIED IN SECTION 5207 OF THE ESTATES AND PROTECTED INDIVIDUALS CODE, PA 386 OF 1998, (MCL 700.5207). THE DEPARTMENT SHALL SUBMIT A COPY OF THAT REVIEW TO THE COURT HAVING JURISDICTION IN THE GUARDIANSHIP PROCEEDING. The guardian shall provide the eligibility information requested by the department or the court for purposes of the annual review.

MCSSA also proposes the following amendment – not related to the above issue.

**Amend Sec. 6(1) (a) as follows:**

Sec. 6. (1) The department shall not provide guardianship assistance after 1 of the following occurs:

(a) The child reaches 18 years of age ~~or 19 years of age if he or she is still attending high school.~~ OR 19 YEARS OF AGE IF HE OR SHE IS STILL ATTENDING HIGH SCHOOL.

Explanation of the proposed amendment

The proposed amendment to Sec 6.(1) (a) would permit a child to continue to receive guardianship assistance after the child reaches age 18 provided the child is still attending high school. This is what the current law provides. SB 227 proposes to discontinue guardianship assistance even though the child continues to attend high school after age

18. Children who have been in foster care or who have had traumatic experiences in their home prior to removal frequently have difficulty in school and may be older as they reach high school. Discontinuing guardianship assistance while the child continues in high school could present difficulties for the guardian and the child at a critical time in the child's life. At a time when we are attempting to support children transitioning from foster care and address Michigan's high incidences of high school drop out rates, removing guardianship assistance for a child who continues in high school makes no sense.

**Potential Amendment to Sec. 5207 of the Estates and Protected Individuals Code:**

Sec. 5207. The court may review a guardianship for a minor as it considers necessary and shall review a guardianship annually if the minor is under 6 years of age AND SHALL REVIEW A GUARDIANSHIP ANNUALLY OF A CHILD RECEIVING GUARDIANSHIP ASSISTANCE AS A RESULT OF A GUARDIANSHIP AGREEMENT BETWEEN THE GUARDIAN AND THE DEPARTMENT OF HUMAN SERVICES UNDER SECTION 5 OF THE SUBSIDIZED GUARDIANSHIP ASSISTANCE ACT, (MCL 722.875). . In conducting the review, the court shall consider all of the following factors: etc.

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This is the cached copy of <http://courts.michigan.gov/scao/courtforms/guardian-conservator/pc654.pdf>.

MCL 700.5215(F)

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Approved, SCAO

JIS CODE: AGM

STATE OF MICHIGAN  
PROBATE COURT  
COUNTY  
CIRCUIT COURT - FAMILY DIVISION

ANNUAL REPORT OF GUARDIAN  
ON CONDITION OF MINOR

FILE NO.

This report should be completed annually by the guardian, or more often if directed by the court.

In the matter of \_\_\_\_\_, minor

1. I, \_\_\_\_\_, am the guardian of the above named minor and my annual

report for the period

Date

to

Date

is as follows:

2. Present age of the minor:

Minor's date of birth:

3. Living Arrangement

a. Current address and telephone number of the minor :

b. The minor's residence is:

guardian's home

relative's home:

Relationship

other:

c. The minor has been in the present residence since  
the changes and the reasons for change:

Date

. If moved within the past year, state

d. I rate the minor's living arrangement as

excellent.

average.

below average.

e. I believe the minor is

content with the living situation.

unhappy with the living situation.

f. I recommend a more suitable living arrangement for the minor as follows:

4. Physical Health

a. The minor's current physical condition is

excellent.

good.

fair.

poor.

b. During the past year the minor's physical condition has  
remained about the same.

improved.

Explain

worsened.

Explain

c. During the past year the minor received the following medical treatment (include check-ups and optical and dental work):

Date

Ailment

Type of Treatment

Doctor's Name

(PLEASE SEE OTHER SIDE)

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PC 654 (1/06) ANNUAL REPORT OF GUARDIAN ON CONDITION OF MINOR

MCL 700.5215(f), MCR 5.409(A)

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5. Education

- a. The minor regularly attends school at  
and is in grade
- b. The minor attends alternative education at  
and is in grade
- c. The minor does not attend school because

6. Activities of Minor

- a. The minor's social activities are:
- b. The minor participates in the following sports:
- c. During the past year the minor has been in counseling with  
at
- d. During the past year the minor received in-patient services at

7. Parenting time between the minor and parents was as follows:

- a. Father  
Father's current address:
- b. Mother  
Mother's current address:
- c. Comments about parenting time:

8. Parents complied with the court structured plan limited guardianship placement plan as follows:

Changes should be made to the plan as follows:

9. The guardianship should should not be continued because:

10. I        am        am not        willing to continue to serve as guardian.

11. As guardian, I have been ordered by the court to file an annual account which is attached.

Date

Signature of guardian

Address

City, state, zip

Telephone no.

This is the cached copy of <http://courts.michigan.gov/scao/courtforms/guardian-conservator/pc655.pdf>.

MCL 700.5207

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STATE OF MICHIGAN  
PROBATE COURT  
COUNTY  
CIRCUIT COURT - FAMILY DIVISION

FILE NO.

REPORT FOR COURT REVIEW OF  
MINOR GUARDIANSHIP

In the matter of

, a minor, born

Date of birth

1. As ordered by the court, I have investigated this guardianship.

2. I visited the guardian on

Date

at

Location

3. I visited the minor on

Date

at

Location

I did not visit the minor because:

4. I visited the parent(s), who reside(s) at

I did not visit the parent(s) because:

5. The parent(s) complied with the

court-structured plan

limited-guardianship-placement plan

dated

to the following extent:

6. The guardian complied with the

court-structured plan

limited-guardianship-placement plan

dated

to the following extent:

7. The guardian has adequately provided for the welfare of the minor to the following extent:

(PLEASE SEE OTHER SIDE)

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PC 655 (9/08) REPORT FOR COURT REVIEW OF MINOR GUARDIANSHIP

MCL 700.5207, MCR 5.404(E)

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8. The guardian        is        is not        willing to continue to provide for the welfare of the minor.
9. The guardian        has        does not have        the ability to continue to provide for the welfare of the minor.
10. It        is        is not        necessary to continue this guardianship for the following reasons:

11. If the guardianship is continued, the effect on the welfare of the minor will be as follows:

12. The following factors should be considered for the welfare of the minor:

13. I RECOMMEND that this guardianship

be terminated.  
be continued without modification.  
be continued with the following modifications: (Specify.)



14. I also recommend that the court schedule a hearing on the status of the guardianship.

Date

Signature

Address

Name (type or print)

City, state, zip

Telephone no.